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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-928]

Uncovered Innerspring Units from the People's Republic of China: Initiation of Anticircumvention Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to a request from Leggett & Platt Incorporated ("Petitioner"), the Department of Commerce ("the Department") is initiating an anticircumvention inquiry to determine whether certain imports are circumventing the antidumping duty order on uncovered innerspring units from the People's Republic of China ("PRC").¹

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*.]

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SUPPLEMENTARY INFORMATION:

Background

On December 31, 2007, Petitioner filed a petition seeking imposition of antidumping duties on imports of uncovered innerspring units from, among other countries, the PRC.²

Following completion of an investigation by the Department and the U.S. International Trade

¹ See *Uncovered Innerspring Units from the People's Republic of China: Notice of Antidumping Duty Order*, 74 FR 7661 (February 19, 2009) ("Order").

² The petition also included imports of uncovered innerspring units from South Africa and the Socialist Republic of Vietnam. See *Uncovered Innerspring Units from the People's Republic of China, South Africa, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 73 FR 4817 (January 28, 2008).

Commission (“the Commission”), the Department imposed antidumping duties in the amounts of 234.51 percent on the mandatory respondent, Foshan Jingxin Steel & Wire Spring Co., Ltd., and 164.75 percent on seven companies that qualified for separate rates.³

In the second administrative review of the *Order*,⁴ Petitioner requested that the Department review Reztec Industries Sdn Bhd (“Reztec”).⁵ The Department initiated the review on March 31, 2011⁶ and sent questionnaires to the named respondents, including Reztec. On May 19, 2011, in response to the Department’s questionnaire, Reztec submitted a no-shipment letter to the Department and certified that it did not export PRC-origin uncovered innerspring units to the United States during the POR.⁷ However, in its no-shipment letter, Reztec stated that it, “does purchase some raw materials from China, some of which is {sic} used to produce innerspring units in Malaysia” and that “{t}hese Chinese raw materials are further processed in Malaysia and combined with other materials into finished innerspring units and mattresses, for sale within Malaysia and for export.”⁸ On April 12, 2012, the Department determined that Reztec did not sell subject merchandise during the POR and rescinded the review with respect to Reztec.⁹

³ *Order*, 74 FR at 7662.

⁴ The second administrative review covered the period of review (“POR”) February 1, 2010, through January 31, 2011. See *Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011).

⁵ See also Memorandum to the File from Steven Hampton, regarding Placing Supporting Documentation on the Record of the Anticircumvention Inquiry: Petitioner’s Request from Second Administrative Review of Uncovered Innerspring Units from the People’s Republic of China, dated April 13, 2012 at Attachment #1.

⁶ See *Initiation of Antidumping Duty Administrative Reviews, Requests for Revocation in Part, and Deferral of Administrative Review*, 76 FR 17825 (March 31, 2011).

⁷ See also Memorandum to the File from Steven Hampton, regarding Placing Supporting Documentation on the Record of the Anticircumvention Inquiry: Reztec’s No Shipment Letter from the Second Administrative Review of Uncovered Innerspring Units from the People’s Republic of China, dated April 13, 2012 at Attachment #1 (“No Shipment Letter”).

⁸ See No Shipment Letter at 2.

⁹ See *Uncovered Innerspring Units from the People’s Republic of China: Final Results and Final Rescission, in Part, of the Antidumping Duty Administrative Review*, 77 FR 21961, 21962 (April 12, 2012).

On February 29, 2012, pursuant to section 781(b) of the Tariff Act of 1930, as amended (“the Act”), and section 351.225(h) of the Department’s regulations, Petitioner submitted a request for the Department to initiate an anticircumvention inquiry of Reztec to determine whether Reztec’s innerspring units completed and assembled in Malaysia from PRC-origin components constitute circumvention of the *Order*.¹⁰ In its request, Petitioner contends that Reztec, by its own admission in its no-shipment letter, imports innerspring unit components from the PRC to Malaysia, further assembles these components into uncovered innerspring units, and exports the assembled innerspring units to the United States in the form of subject merchandise.¹¹ Petitioner argues that Reztec’s operations constitute minor further assembly in a third country, *i.e.* Malaysia. On April 2, 2012, the Department extended the deadline to initiate a circumvention inquiry by 45 days, pursuant to section 351.302(b) of the Department’s regulations.¹²

Scope of the Order

The merchandise subject to the order is uncovered innerspring units composed of a series of individual metal springs joined together in sizes corresponding to the sizes of adult mattresses (*e.g.*, twin, twin long, full, full long, queen, California king, and king) and units used in smaller constructions, such as crib and youth mattresses. All uncovered innerspring units are included in the scope regardless of width and length. Included within this definition are innersprings typically ranging from 30.5 inches to 76 inches in width and 68 inches to 84 inches in length. Innersprings for crib mattresses typically range from 25 inches to 27 inches in width and 50 inches to 52 inches in length.

¹⁰ See Petitioner’s February 29, 2012 submission (“Circumvention Request”) at 3.

¹¹ See *id.* at 2-3.

¹² See Letter from Paul Walker, Acting Program Manager, to Leggett & Platt Incorporated April 2, 2012.

Uncovered innerspring units are suitable for use as the innerspring component in the manufacture of innerspring mattresses, including mattresses that incorporate a foam encasement around the innerspring. Pocketed and non-pocketed innerspring units are included in this definition. Non-pocketed innersprings are typically joined together with helical wire and border rods. Non-pocketed innersprings are included in this definition regardless of whether they have border rods attached to the perimeter of the innerspring. Pocketed innersprings are individual coils covered by a “pocket” or “sock” of a nonwoven synthetic material or woven material and then glued together in a linear fashion.

Uncovered innersprings are classified under subheading 9404.29.9010 and have also been classified under subheadings 9404.10.0000, 7326.20.0070, 7320.20.5010, or 7320.90.5010 of the Harmonized Tariff Schedule of the United States (“HTSUS”). The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of the order is dispositive.

Initiation of Circumvention Proceeding

Section 781(b)(1) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries, under section 781(b)(1) of the Act, the Department will also evaluate whether: (1) the process of assembly or completion in the other foreign country is minor or insignificant; (2) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (3) action is appropriate to prevent evasion of such an order or finding. As discussed below, Petitioner has provided evidence with respect to these criteria.

A. *Merchandise of the Same Class or Kind*

Petitioner argues that merchandise imported by Reztec from Malaysia into the United States is of the same class or kind as that subject to the *Order*. Petitioner claims that the uncovered innerspring units that Reztec completes or assembles in Malaysia, then ships to the United States, are the same class or kind of merchandise as the uncovered innerspring units that are subject to the *Order*.¹³ Petitioner contends that there is no question that the uncovered innerspring units that Reztec exports to the United States meet the physical characteristics that define the scope of the order.¹⁴ Moreover, Petitioner states that Reztec even acknowledged this in the second administrative review, where it stated: “Reztec’s products, including its uncovered innerspring units sold to the United States, are manufactured in Malaysia.”¹⁵

B. *Completion of Merchandise in a Foreign Country*

Petitioner notes that the *Order* clearly indicates that innerspring units are assembled from three key components: steel wire coils, helical wires, and in certain cases, border rods.¹⁶ Petitioner argues that Reztec admitted that it imports the key inputs used in the production of innerspring units from the PRC that are then “further processed in Malaysia and combined with other materials into finished innerspring units and mattresses, for sale within Malaysia and for export.”¹⁷ While Reztec asserts that it further processes these inputs in Malaysia and combines these inputs with other materials into finished innerspring units, Petitioner believes that Reztec’s

¹³ See Circumvention Request at 7-19.

¹⁴ *Id.*

¹⁵ See No Shipment Letter at 4.

¹⁶ See Circumvention Request at 2. The Commission also noted that innerspring coils and border rods are major components of an innerspring unit. See *Uncovered Innerspring Units from South Africa and Vietnam*, USITC Pub. 4051, Inv. Nos. 731-TA-1141-1142 at I-11 (December 2008) (hereinafter, “*USITC Uncovered Innersprings Report*”). In its final determination regarding imports of uncovered innersprings from the PRC, the Commission adopted the findings and analyses in its determinations and views regarding subject imports from South Africa and Vietnam with respect to the domestic like product, the domestic industry, cumulation, and material injury. *Uncovered Innerspring Units from China*, USITC Pub. 4061, Inv. No. 731-TA-1140 at 3 and I-1 (February 2009).

¹⁷ See No Shipment Letter at 2.

further processing is minor and instead involves simple assembly operations.¹⁸ Petitioner underscores that there is no dispute that this requirement has been met: Reztec itself acknowledges that it completes innerspring units in Malaysia from innerspring components produced in the PRC.¹⁹

C. Minor or Insignificant Process

Under section 781(b)(2) of the Act, the Department is required to consider five factors to determine whether the process of assembly or completion is minor or insignificant. Petitioner believes that an examination of these factors indicates that Reztec's process of assembly and completion of innerspring units in Malaysia is not significant.

(1) Level of Investment

Petitioner states that the process employed to assemble innerspring components into innerspring units is relatively simple and requires only limited investment and labor, and that the start-up investment costs and the barriers to entry into this type of assembly operation (*i.e.*, manual or semi-automated) are low. Petitioner asserts that in the most basic, fully-manual operation, coils are assembled manually using a wooden or steel jig in which the coils (continuous or bonnell)²⁰ are hand-loaded, then hand-laced with helical wire and finished by clipping the border rods to the unit.²¹ Petitioner posits that the cost of a new wooden (or steel) jig is approximately \$200-\$400.²² Petitioner argues that the level of investment would also be

¹⁸ See Circumvention Request at 7-9.

¹⁹ See Circumvention Request at 7-8.

²⁰ Bonnell coils, the most commonly used type of coils in innerspring units, have an hour-glass shape which tapers inward from top to center and then outward from the center to bottom. Bonnell coils are generally the lowest priced units and the type of coil generally used in imported innerspring units. Continuous coils have entire rows of continuous coils formed from a single piece of wire. For a more detailed description of the types of innerspring coils, see *USITC Uncovered Innersprings Report* at I-8 to I-10.

²¹ See Circumvention Request at 9-10. A somewhat more advanced assembly operation may involve manual assembly using a wooden or steel jig in which the coils are hand-set, and a lacing machine is used to feed the helical to join the rows, and then the borders are manually clipped to the unit. *Id.*

²² *Id.*

low if Reztec relies on a semi-automated assembly operation where a machine is used to assemble the rows of coils.²³

(2) *Level of Research and Development*

Petitioner is not aware that Reztec performs any research and development related to the assembly and/or production of innerspring units.²⁴ Moreover, Petitioner states that it would not expect Reztec to incur any research and development expenses related to its innerspring assembly operations.²⁵

(3) *Nature of the Production Process*

According to Petitioner, the manufacturing process for assembling innerspring units from imported components is relatively simple and does not require significant start-up costs, sophisticated machinery and inputs, or substantial labor.²⁶

(4) *Extent of Production in the Malaysia*

Petitioner notes that Reztec's website indicates that it "manufacturers in a 60,000 sq. foot plant with a 100,000 sq. foot capacity."²⁷ Petitioner also claims that only a portion of that facility is likely dedicated to assembly operations as Reztec claims to also produce other products such as finished mattresses.²⁸

(5) *Value of Processing in Malaysia as Compared to Uncovered Innerspring Units Imported Into the United States*

Petitioner asserts that the value of assembly processing performed in Malaysia represents a small portion of the total value of the innerspring units imported into the United States.²⁹

Petitioner believes Reztec's assembly operations likely rely on relatively unskilled, low wage

²³ *Id.*

²⁴ *Id.* at 11.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.* (citing <http://www.reztec.com.my>); see also *id.* at Exhibit 4.

²⁸ *Id.*

²⁹ *Id.*

employees.³⁰ Thus, these assembly operations involve minimal additional labor costs.³¹

Petitioner asserts that by any standard, the assembly operations represent an insignificant portion of the total value.³²

D. Value of Merchandise Produced in PRC

Petitioner argues that the value of the components that Reztec sources in the PRC for further assembly in Malaysia into subject merchandise is a significant portion of the total value of the innerspring units exported to the United States.³³ As Petitioner noted previously, innerspring coils, helical and border rods are the key components of an innerspring unit. Petitioner explains that they also constitute a significant portion of the overall costs of an innerspring unit.³⁴ Petitioner does not have access to other PRC innerspring unit producer/exporter costs. Therefore, it conducted an analysis related to the production costs of various innerspring unit models at its own facility in Guangzhou, PRC. Petitioner believes that its operation (and costs) in the PRC are representative of the operations (and costs) of other PRC innerspring unit producers/exporters, as it is the largest producer of innersprings in the PRC.³⁵ According to Petitioner's analysis of its own production costs in the PRC, the total value of these innerspring components compose a significant portion of the total value of an innerspring unit.³⁶

E. Additional Factors to Consider in Determining Whether Action Is Necessary

Section 781(b)(3) of the Act directs the Department to consider additional factors in determining whether to include merchandise assembled or completed in a foreign country within

³⁰ *Id.* at 12-13.

³¹ *Id.* at 13. There are virtually no additional energy costs given that the machines, if utilized, are quite basic. The only additional material inputs (besides the coils, which represent the single largest cost of an innerspring unit) are steel wire for lacing and border clips. *Id.* at 13 n.28.

³² *Id.* at 13.

³³ *Id.* at 13-14.

³⁴ *Id.* at 14.

³⁵ *Id.*

³⁶ *Id.*

the scope of the *Order*. Petitioner argues that since the *Order* was imposed, imports into the United States from Malaysia of uncovered innerspring units have spiked. Malaysia's imports from the PRC of key inputs have also increased. Moreover, Petitioner believes that Reztec has close relationships with several PRC producers/exporters named in the underlying investigation.

(1) *Pattern of trade*

Based on official U.S. import data, Petitioner contends that imports of uncovered innerspring units from Malaysia have increased dramatically since the *Order* was imposed.³⁷ Petitioner provided a chart that illustrated the U.S. annual imports from Malaysia under the relevant HTSUS subheadings.³⁸ Petitioner states that prior to 2009, there were virtually no imports of uncovered innerspring units from Malaysia to the U.S.³⁹ However, according to the table, subject imports from Malaysia to the U.S. have steadily increased: 185,917 pieces were imported in 2009, 312,181 pieces were imported in 2010, and 316,687 pieces were imported from January 2011 to November 2011 under HTSUS 9404.29.9011.⁴⁰ Petitioner claims that the actual level of imports is likely higher as innerspring units are often erroneously classified under various other classifications.⁴¹

Petitioner argues that in its No Shipment Letter, Reztec identified certain companies in the PRC as its suppliers of innerspring unit inputs.⁴² Petitioner believes that this constitutes

³⁷ *Id.* at 14-15. Petitioner states that until 2011, U.S. imports of uncovered innerspring units were properly classified and entered the United States under harmonized tariff schedule ("HTS") 9404.29.9010 ("uncovered innerspring units"). In 2011, the HTS classification for uncovered innerspring units was refined and further broken out to provide a separate ten-digit classification for innerspring units used in cribs and toddler beds. Thus, HTS 9409.29.9010 was eliminated and replaced with 9404.29.9005 (Uncovered innerspring units: For use in a crib or toddler bed) and 9404.29.9011 (Uncovered innerspring units: Other). Petitioner notes that the *Order* covers innerspring units in both of these HTS classifications. *Id.* at 15.

³⁸ *Id.* at 15 n. 31. Petitioner notes that there were no U.S. imports from Malaysia in YTD 2011 under HTS 9404.29.9005.

³⁹ *Id.* at 15.

⁴⁰ *Id.*

⁴¹ *Id.* at 15 n.32 (citing *USITC Uncovered Innerspring Report* at I-6, I-7 and IV-1, IV-2).

⁴² *Id.* at 16 (citing No Shipment Letter at 2).

circumvention of the *Order*, and suggests that Reztec's operations and activities warrant additional investigation.

(2) *Increase of subject imports from the PRC to Malaysia after the investigation initiation*

Petitioner contends that Malaysia's official import statistics indicated that imports from the PRC of the key component in innerspring units, *i.e.*, coils, have increased substantially since the *Order* was imposed.⁴³ Petitioner provided a chart of import data related to Malaysia's imports of coils from the PRC over the last several years and year-to-date 2011 under HTS 7320.99.000 (other springs and leaves for springs, of iron/steel, kilograms ("kgs")). This chart shows an increase of imported coils from 2,619,670 kgs in 2007 to 9,518.181 kgs in 2010, and 8,634,757 kgs year-to-date for 2011.⁴⁴

Analysis of the Request

Based on our analysis of Petitioner's circumvention inquiry request, the Department determines that Petitioner has satisfied the criteria under section 781(b)(1) of the Act to warrant an initiation of a formal circumvention inquiry. In accordance with section 351.225(e) of the Department's regulations, the Department finds that the issue of whether a product is included within the scope of an order cannot be determined based solely upon the application and the descriptions of the merchandise. Accordingly, the Department will notify by mail all parties on the Department's scope service list of the initiation of a circumvention inquiry. In addition, in accordance with section 351.225(f)(1)(ii) of the Department's regulations, a notice of the initiation of a circumvention inquiry issued under section 351.225(e) of the Department's regulations includes a description of the product that is the subject of the circumvention inquiry — uncovered innerspring units that contain the characteristics as provided in the scope of the

⁴³ *Id.* at 16.

⁴⁴ *Id.* at 16. Petitioner also provided a description of Malaysia's relevant HTS numbers. *Id.* at Exhibit 8.

Order, and an explanation of the reasons for the Department's decision to initiate a circumvention inquiry, as provided below.

With regard to whether the merchandise from the Malaysia is of the same class or kind as the merchandise produced in the PRC, Petitioner has presented information to the Department indicating that, pursuant to section 781(b)(1)(A) of the Act, the merchandise being produced in and/or exported from Malaysia by Reztec may be of the same class or kind as uncovered innerspring units produced in the PRC, which is subject to the *Order*. Consequently, the Department finds that Petitioner has provided sufficient information in its request regarding the class of kind of merchandise to support the initiation of a circumvention inquiry.

With regard to completion or assembly of merchandise in a foreign country, pursuant to section 781(b)(1)(B) of the Act, Petitioner has also presented information to the Department indicating that the uncovered innerspring units exported from Malaysia to the United States are assembled by Reztec in Malaysia using key components from the PRC that account for a significant portion of the total costs related to the production of uncovered innerspring units. We find that the information presented by Petitioner regarding this criterion supports its request to initiate a circumvention inquiry.

The Department finds that Petitioner sufficiently addressed the factors described in section 781(b)(1)(C) and 781(b)(2) of the Act regarding whether the assembly or completion of uncovered innerspring units in the Malaysia is minor or insignificant. Specifically, in support of its argument, Petitioner relied on its own experience and surrogate values from the less-than-fair-value investigation. Thus, we find that the information presented by Petitioner supports their request to initiate a circumvention inquiry. In particular, we find that Petitioner's submission asserts that: (1) little investment has been made by Reztec in its uncovered innerspring unit

operations in Malaysia; (2) Reztec has fully integrated production facilities in the PRC, and therefore, research and development presumably takes place in the PRC rather than the Malaysia; (3) the assembly or completion of key uncovered innerspring unit components in Malaysia does not alter the fundamental characteristics of the uncovered innerspring unit, nor does it remove it from the scope of the *Order*; (4) Reztec has a lower investment level than other companies that produce uncovered innerspring units; and (5) further assembly or completion of key uncovered innerspring unit components in Malaysia adds little value to the merchandise imported to the United States. Our analysis will focus on Reztec's assembly operations in the Malaysia and, in the context of this proceeding, we will closely examine the manner in which this company's processing materials are obtained, whether those materials are considered subject to the scope of the *Order*, and the extent of processing in Malaysia, as well as the manner in which production and sales relationships are conducted with the alleged PRC suppliers.

With respect to the value of the merchandise produced in the PRC, pursuant to section 781(b)(1)(D) of the Act, Petitioner relied on its own production experience in the PRC and arguments in the "minor or insignificant process" portion of its circumvention request to indicate that the value of the key components produced in the PRC may be significant relative to the total value of the finished uncovered innerspring units exported to the United States. We find that this information adequately meets the requirements of this factor, as discussed above, for the purposes of initiating a circumvention inquiry.

Finally, with respect to the additional factors listed under section 781(b)(3) of the Act, we find that imports of uncovered innerspring units from Malaysia has increased steadily since the imposition of the *Order* and that imports of uncovered innerspring units and key components from the PRC to Malaysia also have increased since the *Order* took effect.

In accordance with section 351.225(l)(2) of the Department's regulations, if the Department issues a preliminary affirmative determination, we will then instruct U.S. Customs and Border Protection to suspend liquidation and require a cash deposit of estimated duties on the merchandise. This circumvention inquiry covers Reztec. If, within sufficient time, the Department receives a formal request from an interested party regarding potential circumvention of the *Order* by other Malaysian companies, we will consider conducting additional inquiries concurrently.

The Department will establish a schedule for questionnaires and comments on the issues. In accordance with section 351.225(f)(5) of the Department's regulations, the Department intends to issue its final determination within 300 days of the date of publication of this initiation, in accordance with section 781(f) of the Act. This notice is published in accordance with section 351.225(f) of the Department's regulations.

Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

May 17, 2012
Date

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